

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM #1 Safe Sleep Regulations

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held on September 19, 2018, at the following address:

Office Building #8
744 P St. Room 103
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only if attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. CDSS will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you need a language interpreter at the hearing (including sign language), please notify CDSS at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on September 19, 2018.

Following the public hearing CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. Except for no substantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at [CDSS Public Hearings for Proposed Regulations \(http://www.cdss.ca.gov/inforesources/Letters-Regulations/Legislation-and-Regulations/CDSS-Regulation-Changes-In-Process-and-Completed-Regulations/Public-Hearing-Information\)](http://www.cdss.ca.gov/inforesources/Letters-Regulations/Legislation-and-Regulations/CDSS-Regulation-Changes-In-Process-and-Completed-Regulations/Public-Hearing-Information). Additionally, all the information which CDSS considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading at the address listed below. Following the public hearing, copies of the Final Statement of Reasons will also be available at the following address:

California Department of Social Services
Office of Regulations Development
744 P. Street, MS 8-4-192
Sacramento, CA 95814
Tel: (916) 657-2856, Fax: (916) 654-3286, Email: ord@dss.ca.gov

CHAPTERS

Title 22 sections 101239, 101416.5, 101419.2, 101429, 101430, 101439.1, 102352, 102417, 102425, and 102426

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

CDSS is proposing amendments and adoptions to California Code of Regulations (CCR), Title 22, Division 12 for Child Care Centers (CCC) and Family Child Care Homes (FCCH) to support safe sleep for infants in child care facilities. Currently, the only statute governing child care licensing regarding safe sleep or Sudden Infant Death Syndrome (SIDS) is Health and Safety (H&S) Code section 1596.847, which requires CDSS to distribute materials regarding SIDS. There is also a Federal mandate from the Child Care and Development Block Grant Act of 2014, which includes provisions related to health and safety requirements for all providers that receive payment from the Child Care and Development Fund, which includes prevention of SIDS and use of safe sleeping practices. CDSS is offering enhanced requirements to ensure a safe sleep environment for infants in licensed child care. The proposed regulations will ensure that risk factors are addressed regarding safe sleep.

In 2012, a white paper was created by the Health and Safety Regulatory Workgroup through stakeholder collaboration. This white paper proposed eight regulatory changes supporting safe sleep for infants in CCCs and FCCHs. CDSS utilized these recommendations along with the California SIDS Program, American Academy of Pediatrics, and Caring for Our Children National Health and Safety Performance Standards to develop new requirements and strengthen existing requirements to reduce risk of unsafe sleeping environments. CDSS has worked closely with stakeholders in the development of concepts and recommendations to address potential hazards in child care settings related to safe sleep.

In 2017, there were 13 sleep related infant deaths in child care. The lack of current enforcement authority when situations have placed infants at risk is a large issue throughout the state.

Within the proposed regulations, CDSS will require safe sleep equipment such as cribs or play yards for FCCHs, supervision requirements during the time infants are asleep for FCCHs, clear guidelines surrounding supervision for sleeping infants in CCCs, adding in requirements for the safest sleep position for infants, and removing hazards in the crib while the infant is sleeping for all facilities. In addition, the proposed regulations will address proper and timely procedures to obtain emergency medical care. These regulations will support the importance of preventative measures in child care facilities, lowering the risk of SIDS, and requiring safe sleep environments and practices for infants in care.

After conducting an evaluation for any other regulations in this area, CDSS has found that these are the only regulations concerning safe sleep practices by providing clear enforcement authority to address risk factors that are present for infant sleep environments, ensuring infants receive adequate and timely medical care and responding to stakeholder requests for additional clarity and protections. Therefore, the

proposed regulations are neither inconsistent nor incompatible with existing state regulations.

Anticipated Benefits

The benefits of the regulatory action to the health and welfare of infants served in child care environments are as follows: risks posed to the infants in child care settings will be decreased or eliminated, expected reduction of infant deaths in child care settings, and adequate and timely medical care will be required and create more proportionate requirements for FCCH providers, thus, ensuring a higher standard of care.

COST ESTIMATE

1. Costs or Savings to State Agencies: None
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance with Government Code Sections 17500 - 17630: None
3. Nondiscretionary Costs or Savings to Local Agencies: None
4. Federal Funding to State Agencies: None

LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies, but not on school districts. There are no "state-mandated local costs" in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code (GC) because any costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the GC.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on the proposed regulatory action, which was designed to impact only the licensees that make the business decision to serve infants who are the most fragile clients served. There is no requirement for licensees to serve infants and the number of infants served, if any, is at the licensees' discretion.

The provisions in these Title 22 regulations do not create any new cost outside of what should currently be adhered to as a best practice per the American Academy of Pediatrics and National recommendations to ensure infants are not placed in undue harm. Therefore, the proposed changes have no adverse economic impact on the businesses.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

CDSS has determined that there is a potential cost impact on businesses as a result of the proposed action, as the regulations for FCCHs require that the licensee has a crib or play yard for each infant in care. There are currently 28,875 FCCHs, who may or may not serve infants, and who may serve one to four infants. If every FCCH bought one play yard the statewide cost would be \$1,443,750. If every FCCH bought four play yards the statewide cost would be \$5,775,000. Due to the uncertainty of how many FCCHs serve infants, how many infants they serve, and what equipment they may already possess, an exact cost impact varies.

SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is a potential impact on small businesses as a result of filing these regulations because the regulations for FCCHs require that the licensee has a crib or play yard for each infant in care.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. The benefits of the regulatory action to the health and welfare of infants served in child care environments are as follows: risks posed to the infants in child care settings will be decreased or eliminated; expected reduction of infant deaths in child care settings; adequate and timely medical care will be required; and additional proportionate requirements for FCCH providers that will ensure a higher standard of care.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

In accordance with GC section 11346.5, subdivision (a)(13), CDSS has determined that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. CDSS invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

AUTHORITY AND REFERENCE CITATIONS

H&S Code section 1596.81 gives CDSS the authority to develop these regulations and H&S Code sections 1596.70-1597.21 and CCR, Title 22 sections 101151-101439.1 are being referenced to make these regulations more specific.

CDSS REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATION

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